

# Court Vows Early Ruling In Exhume, Autopsy Plea

Special to The Tribune

**PROVO** — Fourth District Judge Maurice Harding Friday promised a ruling within a week on a petition seeking a court order to exhume and have an autopsy performed on the body of a prominent Heber physician.

Dr. Willard Jesse Draper suffered a gunshot wound in the kitchen of his home June 4 and died in an ambulance at the entrance to St. Mark's Hospital in Salt Lake City.

**FOLLOWING** an informal hearing in his private chambers, Judge Harding said he will rule on the petition of Western Empire Life Insurance Co. next Friday. He allowed attorneys representing the insurance firm and Dr. Draper's widow five days to file new affidavits in the case.

The judge said Friday's hearing was "in the nature of a pre-trial" and that he did not expect to hear any further arguments before handing down his ruling.

Rex J. Lewis, Provo attorney representing Mrs. Draper in the action, protested exhumation of the doctor's body on grounds that the court lacks power to issue the order, that the insurance company has waived its right to demand an autopsy and that any pathological examination would be "merely a fishing expedition."

**ATTORNEYS**, for the insurance company filed with the court several exhibits and affidavits signed by two insurance investigators and a Provo pathologist.

Among the exhibits were copies of two insurance policies totaling \$200,000 issued by the company to Dr. Draper in April. One of the policies, for \$100,000, included a double indemnity clause for accidental death.

Claims for payment of the policies were filed with the insurance company the day after Dr. Draper was buried.

**BOTH POLICIES** included provisions which, in the event of suicide within a year from

the date of issuance, would limit the company's liability to the amount of premiums paid prior to the doctor's death.

A death certificate signed by Dr. R. Raymond Green listed cause of the physician's death as an accidental gunshot wound.

In a notarized affidavit, Dr. Richard A. Call, pathologist at Utah Valley Hospital, Provo, said that "by conducting an autopsy . . . it will be possible to determine whether the gunshot wound . . . is consistent with accidental shooting or suicide."

While the pathologist said he

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did not believe the time that has elapsed since burial will "substantially affect" the likelihood of obtaining the information sought by an autopsy, he said evidence "will tend to be lost" if the examination is prolonged.

**A. W. SCOTT**, one of two investigators hired by the insurance company, said in a signed statement his inquiry produced conflicting statements as to the location and nature of the wound and the presence or absence of powder burins.

He charged "that neither the coroner, the sheriff nor the county attorney had made an official or adequate inquiry as to the nature and cause of the death of Dr. Draper prior to (his burial) on June 6."

**No inquest was held.**

The affidavit of Thomas C. Pace, another insurance investigator, said he interviewed Archie D. Buys, coroner and justice of the peace, in the presence of Sheriff Jerry D. Smith.

Mr. Buys told Pace, the affidavit asserted, that the bullet entered Dr. Draper's head behind and above the right ear and emerged "at almost the same spot, or possibly a little higher" on the other side of his skull. The coroner also was quoted as saying that he observed no powder burns on the man's head.

**MR. LEWIS** argued the petitioners, although acquainted with facts surrounding the doctor's death, did not make a demand for an autopsy until June 16, 10 days after his burial. The company, he said, has therefore waived its right to an autopsy.

